

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MAY 5, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of May 5, 2004, was called to order by Mayor Hansen at 5:22 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9(a); one case; Sanchez v. City of Lodi, et al., San Joaquin County Superior Court, Case No. CV 022301 (HR)
- b) Conference with Human Resources Director, Joanne Narloch, regarding Fire Mid-Management (unrepresented) pursuant to Government Code §54956.6
- c) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- d) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- e) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- f) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- g) Actual Litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM

C-3 ADJOURN TO CLOSED SESSION

At 5:22 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:05 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:09 p.m., Mayor Hansen reconvened the City Council meeting and Interim City Attorney Schwabauer disclosed the following actions:

In regard to Item C-2 (a), Council voted 3-1 (with Council Member Hitchcock dissenting, and Mayor Hansen abstaining from discussion and voting due to a potential conflict of interest) to commence mediation.

In regard to Item C-2 (b), Council voted 5-0 on entry of benefits package.

In regard to Items C-2 (c) through (g), no reportable action was taken in closed session.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of May 5, 2004, was called to order by Mayor Hansen at 7:09 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Steve Newman, First Baptist Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Lodi Police Color Guard.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hansen presented a proclamation to Brad Jones, Veteran Representative with the Employment Development Department, proclaiming the month of May 2004 as “Veteran Appreciation Month” in the City of Lodi.

D-2 (b) Mayor Hansen presented a proclamation to event coordinator, Jan Alexander, proclaiming Saturday, May 22, 2004, as “Lodi Family Health and Safety Fair” day in the City of Lodi.

D-2 (c) Mayor Hansen presented a proclamation to Del Kerlin, Assistant Wastewater Treatment Superintendent, proclaiming the week of May 16 to 22, 2004, as “National Public Works Week” in the City of Lodi. Mr. Kerlin pointed out that Public Works is an important part of public safety for the community and gave the following examples. Employees at White Slough maintain public safety by ensuring the wastewater from the City does not harm the environment and those who use the Delta. The Water Division maintains public safety through providing safe drinking water and ensuring the Fire Department has water to do its job. The Street Division provides safe roadways for citizens' use, as well as for the Police and Fire Departments. The Vehicle Maintenance Division makes sure that everyone in Public Works, Transit, and Police have well-maintained vehicles. Employees in Engineering, Inspection, and Administration help all others in Public Works do their jobs.

D-2 (d) Mayor Hansen presented a proclamation to Police Chief Jerry Adams proclaiming the month of May 2004 as “Peace Officer Memorial Month” in the City of Lodi.

D-3 (a) Janet Hamilton, Management Analyst II, gave a presentation to the City Council regarding the fifth annual Celebration on Central, a collaboration between the Community Partnership for Families of San Joaquin and the City of Lodi, which will be held Sunday, May 16, noon to 3 p.m. The health and safety fair event targets families on Lodi's east side and attracts an estimated 5,000 people. Food, donated by the Greater Stockton Area Food Bank and the Salvation Army and prepared by the Mexican-American Lions Club and First Baptist Church, will be free to all guests. Children's activities, health screenings, consumer information, and entertainment comprise the event.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously approved the following items hereinafter set forth:

E-1 Claims were approved in the amount of \$2,544,593.25.

E-2 The minutes of March 17, 2004 (Special Meeting), March 17, 2004 (Regular Meeting), April 7, 2004 (Regular Meeting), and April 19, 2004 (Special Joint meeting with the Lodi Arts Commission) were approved as written.

E-3 Adopted Resolution No. 2004-80 authorizing the purchase of a replacement photocopier from Lucas Business Systems, of Stockton, using a California Multiple Awards Schedule contract, in the amount of \$7,298.99.

- E-4 Adopted Resolution No. 2004-81 awarding the purchase of 65 galvanized steel streetlight poles to the low bidder, Wille Electric Supply Company, of Stockton, in the amount of \$41,137.93.
- E-5 Adopted Resolution No. 2004-82 awarding the purchase of polemount and padmount transformers to the bidder whose proposal and equipment meets City of Lodi specifications, and whose transformers are expected to yield the lowest overall life-cycle costs, Western States Electric, of Portland, OR, in the amount of \$75,819.37.
- E-6 Adopted Resolution No. 2004-83 awarding the purchase of 34 wood utility poles to the low bidder, McFarland-Cascade, of Tacoma, Washington, in the amount of \$12,382.63.
- E-7 Adopted Resolution No. 2004-84 authorizing the donation of 46 ballistic vests to San Joaquin Delta College Peace Officer Standards and Training Academy.
- E-8 Adopted Resolution No. 2004-85 approving the improvement agreement for the public improvements of 2111 West Kettleman Lane (APN 027-410-21) and directed the City Manager and City Clerk to execute the improvement agreement on behalf of the City.
- E-9 Adopted Resolution No. 2004-86 authorizing the City Manager to execute a professional services agreement with Padilla & Associates, Inc., for Disadvantaged Business Enterprise Program consulting services in the amount of \$6,300.
- E-10 Adopted Resolution No. 2004-87 approving the Memorandum of Understanding between City of Lodi and Lodi Professional Firefighters.
- E-11 Adopted Resolution No. 2004-88 approving destruction of certain Finance Department records.
- E-12 Authorized transportation service to Micke Grove Park for the Head Start Program on May 12, 2004, upon approval from the San Joaquin Regional Transit District.
- E-13 Introduced Ordinance No. 1747 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 13 – Public Services – by Repealing and Reenacting Chapter 13.14, 'Stormwater Management and Discharge Control,' Relating to Stormwater."

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Patrick Backman spoke on behalf of Congressman Pombo, State Senator Poochigian, Assemblyman Nakanishi, and Supervisor Sieglock to challenge the Lodi City Council and Department Heads to a softball game on Sunday, May 16 at Zupo Field. He invited the community to attend and noted that 100% of the proceeds would benefit the Lodi Boys and Girls Club. Council accepted the challenge.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider resolution adopting engineer's report, confirming assessments, overruling protests and declaring assessment ballot results, and annexing territory to a maintenance assessment district and forming Zone 3 and Zone 4 (Millsbridge II Zone 3 and Almond North Zone 4 Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1).

Wally Sandelin, City Engineer, reported that Zones 3 and 4 of the Consolidated Landscape Maintenance Assessment District would add an additional 70 lots to the program. It will help the City recoup costs for public parkway maintenance. He noted that neither of these projects have a reverse frontage wall.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

City Clerk Blackston reported that she personally received ballots for Millsbridge II Zone 3 cast in the special assessment mailed ballot procedure as called by the City Council in its Resolution 2004-49 adopted March 17, 2004, and in accordance with instructions contained in the resolution, she declared the balloting closed and certified the results of the tabulation to be as follows:

Total assessment ballots cast YES	\$12,274
Total assessment ballots cast NO	Zero

The assessment ballots cast "yes" equaled 100% of the total assessment ballots cast.

Ms. Blackston reported that she received the assessment ballot for Almond North Zone 4 and in accordance with the instructions contained in Resolution 2004-49 declared the balloting closed and certified the results of the tabulation to be as follows:

Total assessment ballots cast YES	\$11,228
Total assessment ballots cast NO	Zero

The assessment ballot cast "yes" equaled 100% of the total assessment ballots cast.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Hansen second, unanimously adopted Resolution No. 2004-89 entitled, "A Resolution of the Lodi City Council Adopting Engineer's Report, Confirming the Assessments, Overruling Protests and Declaring Assessment Ballot Results and Annexing Two Territories to a Maintenance Assessment District and Forming Zone 3 and Zone 4 – Millsbridge II Zone 3 and Almond North Zone 4 Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1 (Landscaping And Lighting Act Of 1972)."

H. COMMUNICATIONS

H-1 On recommendation of the City's contract administrator and Human Resources staff, the City Council, on motion of Council Member Hitchcock, Beckman second, unanimously rejected the following claims:

- a) Farr Associates, date of loss 09/03 to current
- b) Envision Law Group, LLP, date of loss unstated

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Howard, Beckman second, unanimously directed the City Clerk to post for the following expiring terms and vacancies:

Greater Lodi Area Youth Commission

Adult Advisors:

MaryAnn Porterfield	Term to expire August 30, 2004
Samir Berbawy	Term to expire August 30, 2006

Student Members:

Mary Goad	Term to expire August 30, 2004
Courtney Cook	Term to expire August 30, 2004
Katie Wagenman	Term to expire August 30, 2004
Ricky Gill	Term to expire August 30, 2004
Gabi del Castillo	Term to expire August 30, 2004
Karlyn Nieland	Term to expire August 30, 2005
Joe Nardinelli	Term to expire August 30, 2005

H-4 Miscellaneous – None

I. REGULAR CALENDAR

- I-1 “Adopt resolution authorizing the City Manager to execute electric utility rate contracts for three commercial/industrial customers—Kubota Tractor Corporation, Larry Methvin Installation, and Lodi Memorial Hospital”

Rob Lechner, Manager of Electric Utility Customer Service and Programs, reported that the proposed Lodi Memorial Hospital contract would be for a three-year period commencing June 1, 2004, and it incorporates a rate increase of 12.9% over the current rate for the hospital's five utility meters. Kubota Tractor Corporation plans to be operating in a new 160,000 square foot assembly plant and warehouse facility by January 1, 2005, which will be the start date of the proposed utility rate contract. The contract will be for a three year period and provides a discount of 25% off of the published G-2 rate. Larry Methvin Installation (AKA LMI Glass) is currently renovating a plant that was occupied by Glassworks until mid-December 2003. The proposed contract is for two years commencing June 1, 2004, and it incorporates a 15% discount off the published G-4 rate. LMI intends to construct a new facility in Lodi in the future. Mr. Lechner stated that these contracts will recover all costs associated with supplying these three customers with their energy requirements.

In answer to Council Member Hitchcock, Electric Utility Director Vallow stated that the different discount rates are appropriate because G-4 represents a higher load factor than G-2. He confirmed that the recommended contracts included 100% non-subsidized rates.

In reply to Council Member Land, Mr. Lechner reported that Kubota Tractor would have 65 full-time employees in its warehouse assembly facility. LMI would have 40 to 60 employees in its current facility and anticipates having over 100 employees once its new facility is constructed.

Mayor Pro Tempore Beckman noted that he was sensitive to having tiered rate programs; however, it is acceptable if, as in this case, it is tied to the type of usage.

Mr. Vallow explained that Kubota Tractor had been looking at development costs in different areas and Electric Utility “backed into” their rate to make Lodi the cheapest development cost.

Community Development Director Bartlam reported that Kubota Tractor would be submitting plans for its new building this week. LMI had purchased a business that had closed, and the acquisition has saved jobs.

MOTION/ VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously adopted Resolution No. 2004-90 authorizing the City Manager to execute electric utility rate contracts for three commercial/industrial customers—Kubota Tractor Corporation, Larry Methvin Installation, and Lodi Memorial Hospital.

- I-2 “Approve plans and specifications and authorize advertisement for bids for installation of streetlights on Phase IV of the Streetlight Completion Project and authorize the transfer of funds for the project (\$980,000)”

John Simler, Electrical Estimator, reported that Phase IV of the Streetlight Completion Project includes the installation of 292 streetlights in various areas throughout the City. There are 109 steel standards projected for the project, with 60 being installed on the east side, and 158 concrete standards, with 89 being installed on the east side.

Council Member Hitchcock recalled that the funding source for this project had previously been Electric Utility operating revenue and questioned why Certificates of Participation (COP) are now listed. It was her understanding that the COPs were for transmission lines and construction of the new Electric Utility building. Ms. Hitchcock stated that she would not have been in favor of borrowing money for the Streetlight Completion Project.

Electric Utility Director Vallow was unaware of any Electric Utility capital expense since 1999 that was not reimbursed through COPs. The bond documents were written in such a way that virtually any electrical expense (with the approval of Council) that did not render the bonds taxable, were a legitimate expense.

City Manager Flynn stated that Ruby Paiste, Accounting Manager, confirmed that all the street lighting for this project has been funded through the COPs.

Mayor Hansen asked Mr. Vallow to research the funding history on the Streetlight Completion Project and report back to Council at the next regularly scheduled meeting.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously continued the above matter to the regular City Council meeting of May 19.
(NOTE: This matter was heard at a Special Meeting on May 11, 2004.)

- I-3 “Adopt resolution approving traffic safety improvements for Stockton Street from 300 feet south of Almond Drive to Kettleman Lane and appropriate funds (\$8,000)”

Public Works Director Prima explained that the project will include installation of a two-way left-turn lane on Stockton Street from Kettleman Lane south to Almond Drive. A crosswalk will be installed at Maxwell Street.

Council Member Hitchcock felt that this matter was tied to the street closure project by Cottage Bakery and therefore citizens should not have to pay for traffic safety improvements that are required as a result of this project.

Mayor Pro Tempore Beckman believed that the needed traffic safety improvements were primarily due to new residential development in the area.

Mr. Prima explained that the two-way left-turn lane on Stockton Street had been planned prior to the Cottage Bakery project. It was originally planned as part of a street maintenance capital project anticipated to be done in two years. Cottage Bakery has been requested to pay for the cost of re-stripping the portion of the street that will eventually become its driveway.

Council Member Howard noted that during previous meetings on this topic owners of property in the area commented on preexisting traffic conditions, which warranted these improvements. For this reason she felt that the recommended funding source was appropriate.

MOTION / VOTE:

The City Council, on motion of Council Member Howard, Beckman second, adopted Resolution No. 2004-91 approving the traffic safety improvements for Stockton Street from 300 feet south of Almond Drive to Kettleman Lane and appropriate funds in the amount of \$8,000. The motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen

Noes: Council Members – Hitchcock

Absent: Council Members – None

- I-4 “Adopt resolution approving City participation in the Ham Lane fence construction (Cardinal Street to 1,100 feet south of Cardinal Street) and appropriating funds (\$1,000)”

Public Works Director Prima reported that some property owners along the east side of Ham Lane adjacent to Kofu Park have reverse frontage fences. A 1997 letter from former Public Works Director Ronsko indicated that the City could participate in some element of replacing the wood fences with a block wall. Two property owners have expressed an interest in taking advantage of that offer. The cost of the City’s participation would be \$1,000.

Community Development Director Bartlam recalled that he participated in meetings with property owners in 1997. The City’s desire was to have consistency in the ultimate look along Ham Lane. The City will pay for the demolition cost, waive the building plan-check fee, and make up the cost difference between a smooth face standard masonry unit and a more decorative split-face unit.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously adopted Resolution No. 2004-92 approving City participation in the Ham Lane fence construction (Cardinal Street to 1,100 feet south of Cardinal Street) and appropriating funds in the amount of \$1,000.

- I-5 “Adopt resolution approving specifications and authorizing advertisement for bids for compressed natural gas street sweeper for the Street Division and authorizing the City Manager to accept or reject bids, award the contract, and appropriate funds (\$200,000)”

Public Works Director Prima requested that Council approve the purchase of a street sweeper and allow for the ability to do a “piggyback” purchase on another agency’s bid. He explained that the City and County of San Francisco recently purchased a Tymco street sweeper, which is what staff would like to purchase. If approved, the resolution would be amended to allow the City Manager to make the purchase if the proper grant terms could be met. Mr. Prima explained that, until recently, street sweeping was entirely within the street maintenance general fund activities. When the City moved into Phase 2 of the stormwater program, it increased the frequency of sweeping as one of its best management practices to reduce the amount of debris going into the storm drains, which then winds up in local waterways. Since that time, the cost of street sweeping has been split 50/50 between Wastewater and the General Fund. Three street sweepers are kept on hand with the oldest unit serving as a backup. If this purchase is approved, the City will get rid of the old broom-style sweeper that no longer meets current air regulations.

Mayor Pro Tempore Beckman asked whether it is common in other jurisdictions for stormwater related costs to be attributed to the wastewater account, which is an enterprise fund. He did not understand the connection between the two, since stormwater does not go to White Slough.

City Manager Flynn replied that staff would do a survey of other cities and report back to Council.

Council Member Land noted that Council received communication from Arthur Price who expressed opposition to this expenditure, as he felt the equipment was not effective.

Mr. Prima reported that Street Superintendent George Bradley spoke with Mr. Price about his concerns. Mr. Prima suggested that the equipment Mr. Price was referring to was the old broom-style sweeper that will be taken out of service.

Council Member Land asked when the Streets Division would be coming to Council with a recommendation for posting signs regarding vehicle removal, so that more thorough street sweeping can be done. He suggested that if it were done at 10:00 a.m., rather than 4:00 a.m., there would be fewer cars on the street.

Mr. Prima replied that he would check into the matter and report back to Council.

Mayor Hansen pointed out that the old sweeper was purchased for \$69,600, and over the past ten years \$297,000 has been spent on repairs. He asked whether there would be less repairs needed on a compressed natural gas sweeper. He suggested that if these repair costs continue to be necessary, it may not be worth having a backup unit. He recommended that a process be developed that triggers a reevaluation when the cost of repair reaches twice the cost of the unit.

Mr. Prima reviewed repair cost data on an overhead (filed) and replied that he would look into developing a policy as suggested by Mayor Hansen.

MOTION:

Mayor Pro Tempore Beckman made a motion, Hitchcock second, to adopt Resolution No. 2004-93 approving the specifications and authorizing advertisement for bids for compressed natural gas street sweeper for the Street Division, authorizing the City Manager to take advantage of bids provided to other public agencies for which their specifications meet Congestion Mitigation and Air Quality grant requirements, thereby dispensing with separate bidding as provided in Section 3.20.070 of the Lodi Municipal Code, and authorizing the City Manager to accept or reject bids, award the contract, and appropriate funds in the amount of \$200,000.

DISCUSSION:

Mayor Hansen requested that Council receive a report on the feasibility of instituting a policy triggering a reevaluation when extensive repair costs are made and whether a lease option would be a viable alternative.

VOTE:

The above motion carried by a unanimous vote.

- I-6 "Updates from Mayor Larry Hansen regarding the following issues: Barger & Wolen audit of Envision Law Group's billings; status of recruitment process for new City Attorney; and progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation"

Mayor Hansen reported that he and Interim City Attorney Schwabauer met with representatives of Barger & Wolen last week. The City's insurance company had a merger

occur that caused a delay in Barger & Wolen getting an answer regarding participation in the audit. Interviews for the position of city attorney will take place when dates are selected in which all five Council Members can be present. He suggested that there also be an interview panel comprised of professionals and citizens to provide input to Council. The interview process for selection of a legal firm to represent the City in the Environmental Abatement Program litigation will be completed in the near future.

MOTION / VOTE:

There was no Council action necessary on this matter.

J. ORDINANCES

None.

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Mayor Pro Tempore Beckman reported that he recently met with Pastor Dale Edwards. Mr. Beckman asked that an item be placed on a future agenda for Council to consider adopting the Code of Ethics and Values, which Pastor Edwards had previously submitted.
- Council Member Land agreed with Mr. Beckman regarding Council consideration of the Code of Ethics and Values. He recalled that Council appointee evaluations are typically done prior to budget review and suggested that they be scheduled. He commended the Lodi Fire Department, as well as the fire departments of Woodbridge, Waterloo-Morada Rural Fire Protection District, Mokelumne, and Stockton, for their mutual aid assistance and handling of the three-alarm fire that occurred in downtown Lodi yesterday.
- Council Member Hitchcock reported that the Greenbelt Community Separator Task Force has been conducting meetings twice each month and has had a number of speakers provide presentations.
- Mayor Hansen, referencing Police Officer Memorial Month, spoke in support of maintaining the current retirement system for public safety personnel. He reported that those who work in the profession often have a short lifespan after retirement, due to the stress of the job. In reference to recent communications regarding the Environmental Abatement Program litigation, he felt strongly that the City was now on the right track and asked citizens not to overreact to comments being made. Council recognizes the heavy responsibility it shoulders to ensure the quality of drinking water. He projected that within 6 to 18 months there would be significant actions taking place toward resolution of this matter.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn reported that May 16 is the birthday of Human Resources Director Narloch and Interim Parks and Recreation Director Goehring. He suggested that Council may want to consider instituting a process (that another city practices) where appointees to City Boards and Commission are sworn in during a regular Council meeting.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:20 p.m.

ATTEST:

Susan J. Blackston
City Clerk